

ESTTA Tracking number: **ESTTA599646**

Filing date: **04/21/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Karma Culture LLC
Granted to Date of previous extension	04/19/2014
Address	30-A Grove Street Pittsford, NY 14534 UNITED STATES
Correspondence information	Katherine H. McGuire, Esq. Woods Oviatt Gilman LLP 2 State Street 700 Crossroads Building Rochester, NY 14614 UNITED STATES trademarks@woodsoviatt.com Phone:585-987-2800

Applicant Information

Application No	77876479	Publication date	02/18/2014
Opposition Filing Date	04/21/2014	Opposition Period Ends	04/19/2014
Applicant	Karma Champagne, Inc. 2033 San Elijo Ave. #580 Cardiff by the Sea, CA 92007 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2007/09/00 First Use In Commerce: 2007/09/00
All goods and services in the class are opposed, namely: Alcoholic beverage, namely, carbonated wine

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4063528	Application Date	10/19/2006
Registration Date	11/29/2011	Foreign Priority Date	NONE
Word Mark	KARMA		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 005. First use: First Use: 2011/09/02 First Use In Commerce: 2011/09/02 Dietary supplements in the nature of stimulants in liquid form made from botanicals, algae, spices, and herbs for use in restoring mental alertness, all for non-medicinal purposes

Attachments	noticeofopposition.pdf(414901 bytes)
-------------	---------------------------------------

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Katherine H. McGuire/
Name	Katherine H. McGuire, Esq.
Date	04/21/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 77/876,479
Published in the Official Gazette on February 18, 2014

Karma Culture, LLC

Opposer,

Opposition No.:

v.

Karma Champagne, Inc.

Applicant.

Attn.: Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

1) On March 17, 2014 Karma Culture, LLC, a limited liability company duly organized under the laws of the State of New York ("Opposer"), was granted an extension of time to oppose thereby extending the deadline to file an Opposition to April 19, 2014.

2) Opposer believes that it will be damaged by issuance of a registration for KARMA CALIFORNIA BRUT (the "Mark") as applied for in Application Serial No. 77/876,479 (the "Application"), and hereby opposes the same.

3) Upon information and belief, Karma Champagne, Inc. ("Applicant"), is a corporation organized and existing under the laws of California, with a principle place of business located at 2033 San Elijo Ave., #580, Cardiff By The Sea, California 92007.

4) On November 19, 2009, Applicant filed the Application in the Patent and Trademark Office ("USPTO") based on its use in commerce under Section 1(a) of the Lanham Act,

15 U.S.C. §1051(a).

5) The application stated that the Applicant first used the Mark in commerce at least as early as September 2007, and the first use of the Mark anywhere by the Applicant was at least as early as September 2007.

6) The Application was filed for goods in International Class 033 for: "Alcoholic beverage, namely, carbonated wine."

7) Opposer has long used trademarks similar to the Mark in connection with beverages.

8) Opposer is the owner of U.S. Federally Registered Trademark KARMA having a U.S. Trademark Registration No. 4063528 ("Opposer's Mark" or "the '528 Registration").

9) The '528 Registration is valid, subsisting and in full force and effect.

10) The '528 Registration is based on a Lanham Act Section 1(b) Intent-to-Use filing date of October 19, 2006.

11) The constructive use date of Opposer's Mark pre-dates Applicant's application filing date by more than 11 (eleven) months.

CLAIM FOR RELIEF UNDER 15 U.S.C. § 1052(d)
LIKELIHOOD OF CONFUSION

12) Opposer incorporates by reference Paragraphs 1-11 as if fully set forth herein.

13) If Applicant is allowed to use the Mark for the same or related goods as provided by Opposer, the public is likely to associate goods offered by Applicant with the goods provided by Opposer under the same or similar Mark, or to believe that Applicant's goods are licensed, endorsed or sponsored by Opposer, or that there is some relationship between Applicant and Opposer.

14) Moreover, the Mark included in the Application is confusingly similar to Opposer's

Mark, and is intended for use in connection with substantially related goods.

15) For at least these reasons, the registration and/or use of the Mark as applied for, is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that Applicant's goods emanate from or are otherwise sponsored or endorsed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

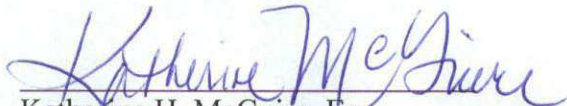
16) Applicant's Application and the presumption of exclusivity that would flow from a registration to Applicant of the Mark sought to be registered are inconsistent with the rights of Opposer, which has made prior and continuous use of Opposer's Mark in commerce.

By reason of the foregoing, Opposer would be damaged by the registration of KARMA CALIFORNIA BRUT to Applicant.

WHEREFORE, it is respectfully requested that this Opposition be sustained and that the registration sought by Application Serial No. 77/876,479 be denied.

Dated: Rochester, New York
April 21, 2014

Respectfully submitted,



Katherine H. McGuire, Esq.
Woods Oviatt Gilman LLP

Attorneys for Opposer
Dunn & Holland, LLC
700 Crossroads Building
2 State Street
Rochester, New York 14614
Tel.: 585.362.4512
Fax: 585.362.4612
Email: kmcguire@woodsoviatt.com

Certificate of Service

I hereby certify that a true and complete copy of the foregoing Notice of Opposition in regard to Application Serial No. 77/876,479 has been served on the Applicant, Karma Champagne, Inc., by mailing said copy on April 21, 2014 via First Class Mail, postage prepaid, to:

GARY L EASTMAN
Eastman & McCartney LLP
401 West A Street, Suite 1785
San Diego, CALIFORNIA 92101



Donna L. Florack
Woods Oviatt Gilman LLP
2 State Street, 700 Crossroads Building
Rochester, New York 14614
Tel.: 585.987.2800
Fax: 585.454.3968